

UT 97-9

Tax Type: USE TAX

Issue: Private Vehicle Use Tax - Business Reorg./Family Sale

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

TAXPAYER,)	
)	
Taxpayer)	
)	
v.)	No.
)	
THE DEPARTMENT OF REVENUE)	
OF THE STATE OF ILLINOIS)	
)	

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Alan Osheff, Special Assistant Attorney General for the Illinois Department of Revenue.

Synopsis:

This matter comes on for hearing pursuant to TAXPAYER's (hereinafter "taxpayer") timely protest of the Notice of Tentative Denial of Claim issued by the Illinois Department of Revenue on January 30, 1997. Taxpayer contends that the motor vehicle in question was transferred to her from her daughter, thus, the resulting tax liability should be \$15.00 rather than the \$65.00 she paid. Following the submission of all evidence and a review of the record, it is recommended that the matter be resolved in favor of the taxpayer.

Findings of Fact:

1. The Department's *prima facie* case, inclusive of all jurisdictional elements, was established by the admission of the Notice of Tentative Denial of Claim. Dept. Ex. No. 1.

2. Mrs. TAXPAYER's daughter, DAUGHTER, assigned the motor vehicle's title to the taxpayer on July 28, 1997. Tr. pp. 5, 8.

3. Taxpayer paid \$65.00 in tax to the Illinois Department of Revenue on October 28, 1995.

Conclusions of Law:

Taxpayer's daughter transferred title of a motor vehicle to the taxpayer on July 28, 1997 and, thereafter, taxpayer paid \$65.00 in tax to the Department. Under 86 Admin. Code ch. I, Sec. 151.105(d)(3) taxpayer is only liable for \$15.00 in tax if the seller or transferor was a spouse, parent, brother, sister or child of the transferee. Taxpayer and her daughter have provided credible testimony that the vehicle was transferred between mother and daughter and have provided a copy of the cancelled check confirming payment.

Wherefore, for the reasons stated above, the taxpayer is entitled to a refund of \$50.00 and the tentative denial of claim should be cancelled.

Christine O'Donoghue
Administrative Law Judge